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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/634,087	08/08/2000	Phillip M. Braun	00216-489001	4905
26161	7590	06/14/2004	EXAMINER	
FISH & RICHARDSON PC 225 FRANKLIN ST BOSTON, MA 02110			ART UNIT	PAPER NUMBER

DATE MAILED: 06/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Notification of Non-Compliance
With 37 CFR 1.192(c)**

Application No.

09/634,087

Applicant(s)

BRAUN ET AL.

Examiner

Mark Spisich

Art Unit

1744

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 06 April 2004 is defective for failure to comply with one or more provisions of 37 CFR 1.192(c). See MPEP § 1206.

To avoid dismissal of the appeal, applicant must file IN TRIPLICATE a complete new brief in compliance with 37 CFR 1.192(c) within the longest of any of the following three **TIME PERIODS**: (1) **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer; (2) **TWO MONTHS** from the date of the notice of appeal; or (3) within the period for reply to the action from which this appeal was taken. **EXTENSIONS OF THESE TIME PERIODS MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 1.192(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, pending or cancelled, or does not identify the appealed claims (37 CFR 1.192(c)(3)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 1.192(c)(4)).
4. ☐ The brief does not contain a concise explanation of the claimed invention, referring to the specification by page and line number and to the drawing, if any, by reference characters (37 CFR 1.192(c)(5)).
5. ☐ The brief does not contain a concise statement of the issues presented for review (37 CFR 1.192(c)(6)).
6. ☐ A single ground of rejection has been applied to two or more claims in this application, and
 - (a) ☐ the brief omits the statement required by 37 CFR 1.192(c)(7) that one or more claims do not stand or fall together, yet presents arguments in support thereof in the argument section of the brief.
 - (b) ☐ the brief includes the statement required by 37 CFR 1.192(c)(7) that one or more claims do not stand or fall together, yet does not present arguments in support thereof in the argument section of the brief.
7. ☐ The brief does not present an argument under a separate heading for each issue on appeal (37 CFR 1.192(c)(8)).
8. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 1.192(c)(9)).
9. ☒ Other (including any explanation in support of the above items):

Applicant correctly acknowledged the status (was NOT entered) of the amendment after final rejection filed 19 February 2004; however, applicant misinterpreted the Advisory Action of 10 March 2004. The examiner intended to indicate that the amendment (WHICH WAS NOT ENTERED) overcame the rejection under 112-2nd paragraph. In view of the fact that this amendment was NOT ENTERED, the rejection of claims 7, 43 and 44 still stands and applicant should have indicated this in the statement of the "ISSUES". Applicant should note that, for example, claim 44 in the appendix is still indefinite for the reason(s) stated in the FINAL REJECTION. In summary, the overcoming of the 112-2nd rejection was based on an amendment which was NOT ENTERED and as such STILL STANDS, in contradiction to applicant's statement on page 3 of the BRIEF.



Mark Spisich
Primary Examiner
Art Unit: 1744